

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

MAGALITA GELIN,

Defendants.

4:14CR3054

MEMORANDUM AND ORDER

Defendant has moved to for an order changing the venue for her plea hearing and requesting a hearing by videoconference. (Filing No. 38). The court has researched the issue. Rule 11 states the court must “address the defendant personally in open court,” (Fed. R. Crim. P. 11), which several circuits have interpreted as meaning the defendant must be physically present in the same courtroom as the judge. The court has not located an Eighth Circuit decision on the issue. Based on the representations of counsel, and the defendant’s communications with pretrial services, the court finds the plea hearing should be continued at this time pending further investigation of options or the defendant’s ability to borrow or pay for transportation to Nebraska. Accordingly,

IT IS ORDERED:

- 1) The defendant's plea hearing is continued until further order of the court.
- 2) A telephonic conference with the undersigned magistrate judge will be held on **September 15, 2014 at 3:30 p.m.** to discuss the parties’ respective positions on re-scheduling the plea hearing. The defendant, her counsel, and counsel for the government shall participate in the conference call. The court will provide conferencing information for the call.
- 3) The Court finds that the ends of justice served by continuing defendant's plea hearing outweigh the best interest of the defendant and the public in a speedy trial. Accordingly, the time between today's date and the district court judge's acceptance or rejection of the anticipated plea of guilty shall be excluded for speedy trial calculation purposes. 18 U.S.C. § 3161(h)(7).

September 12, 2014.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge